

**ROCKAWAY TOWNSHIP
COUNTY OF MORRIS, NEW JERSEY**

ORDINANCE NO. O-23-13

**AN ORDINANCE AMENDING CHAPTER 54 ENTITLED “LAND USE
AND DEVELOPMENT” OF THE CODE OF THE TOWNSHIP OF
ROCKAWAY TO AMEND ITS REGULATIONS PERTAINING TO
ACCESSORY STRUCTURES AND USES**

WHEREAS, the Township of Rockaway establishes its regulations for accessory structures and uses in Section 30.8 of Chapter 54, “Land Use and Development” of the Revised General Ordinances of the Township of Rockaway; and

WHEREAS, these regulations require amendments to better provide better guidance for both Township staff and residents; and

WHEREAS, the Township has determined that Chapter 54, “Land Use and Development” of the Revised General Ordinances of the Township of Rockaway does not adequately address the heights of fences within side and rear yards; and

WHEREAS, the Township also seeks to ensure that retaining walls constructed within Rockaway are done so in a manner which protects the health, safety, and public welfare of the community; and

WHEREAS, the Township therefore seeks to amend its requirements to clarify its regulations regarding fences and to require a post-construction certification from a licensed engineer ensuring the proper construction of retaining walls; and

WHEREAS, Chapter 54, “Land Use and Development” of the Revised General Ordinances also presently establishes a minimum side and rear yard setback of three feet for accessory buildings and structures as well as a setback of five feet between principal buildings and accessory buildings and structures; and

WHEREAS, these setbacks are often in conflict with the regulations set forth in the International Residential Code which requires greater setbacks for fire prevention and safety; and

WHEREAS, the Township seeks to amend its regulations to eliminate this conflict; and

WHEREAS, the Township seeks to more clearly and efficiently regulate its standards pertaining to residential garages; and

WHEREAS, Chapter 54, “Land Use and Development” of the Revised General Ordinances of the Township of Rockaway also presently establishes separate outdoor storage regulations for residential and nonresidential districts; and

WHEREAS, the Township seeks to amend these requirements to better clarify the standards for residential lots located in nonresidential zoning districts and nonresidential lots located in residential zoning districts; and

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Rockaway, County of Morris and State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Township of Rockaway, Chapter 54 entitled “Land Use and Development Regulations.”

Section 1. Chapter 54 of the Code of the Township of Rockaway, Land Use and Development, Section 30.8, Accessory Structures and Uses, Subsection A, Requirements for accessory buildings in residential districts, is amended as follows.

- A. Requirements for accessory buildings in residential districts and residential uses located in nonresidential districts. The following requirements shall apply to all accessory buildings and structures in all residential districts as well as for all accessory buildings and structures for residential uses located in nonresidential districts:
 - (1) No accessory buildings, structures, or combination of accessory buildings and/or structures shall cover a ground area more than 25% of the lot's rear yard area in the R13 and R20 Zones or on any residential use located in a nonresidential district, or more than 20% of the lot's rear yard area in all other residential zones.
 - (2) No accessory building shall exceed the height of the principal building or 16 feet, whichever results in the lesser height.
 - (3) No accessory building shall be permitted in any front yard. Accessory buildings on corner lots shall comply with the minimum front yard requirements for principal buildings in the district for all street frontages.
 - (4) Accessory buildings shall be set back a minimum distance of five feet from any property line, except that sheds and other similar accessory buildings and structures which require a zoning permit but do not require a building permit may be located at least three feet from any property line.
 - (5) All accessory buildings shall be located at least ten feet from any principal building located on the property or on any adjacent property, excluding overhangs, except that sheds and other similar accessory buildings and structures which require a zoning permit but do not require a building permit may be located at least five feet from any principal building located on the property or any adjacent property. Where an accessory building is attached to a principal building

by a breezeway, roof, wall, or the like, such accessory building shall be considered part of the principal building.

- (6) Attached and detached garages for single-family dwellings shall not contain more than three motor vehicular bays.
- (7) Accessory buildings and structures for nonresidential uses located in residential zoning districts shall be subject to the regulations set forth in this subsection.

Section 2. Chapter 54 of the Code of the Township of Rockaway, Land Use and Development, Section 30.8, Accessory Structures and Uses, Subsection B, Requirements for certain structures in residential districts is amended as follows.

B. Requirements for certain structures in residential districts. The following requirements shall apply to the specified accessory structures and uses in all residential districts and for all residential uses located in nonresidential districts:

- (1) Decks, patios and porches. Decks, porches, elevated patios and like structures which are attached to the principal building shall be permitted as accessory structures in all residential districts and for all residential uses located in nonresidential districts, subject to the following requirements:
 - (a) Decks, porches, elevated patios and like structures which are attached to the principal building shall be excluded from the calculation of building coverage, provided that such structures are neither roofed nor enclosed.
 - (b) Decks, porches, elevated patios and like structures which are attached to the principal building shall be subject to the minimum yard requirements for the principal building, except that such structures shall be permitted to encroach a maximum of 25% into the required rear yard, provided the principal building meets the rear yard setback requirements.
 - (c) Also see Subsection 54-30.8A(1).
- (2) Aboveground and in-ground private swimming pools are permitted as an accessory structure to all single-family detached dwellings, subject to the following requirements:
 - (a) No pool shall be closer than 10 feet to any rear lot line nor closer to the side lot line than the side yard setback requirement for the principal building.
 - (b) No pool shall be permitted in the front yard. On corner lots no part of any private swimming pool shall be constructed within the required front yard setback for either street.
 - (c) Artificial lights used or maintained in connection with a private swimming pool shall be so located that the direct source of light is not visible from an adjacent property.

- (d) No private swimming pool shall be used other than as an accessory use.
 - (e) No pool shall be closer than 10 feet to the principal building located on the property.
- (3) Family day care homes as defined by this chapter are permitted as accessory uses in all residential districts. The requirements for family day care homes shall be the same as for permitted single-family detached dwellings.
- (4) Parking and storage of commercial vehicles, nonpassenger vehicles, and recreational vehicles. The outdoor storage or parking in the open of commercial vehicles, other nonpassenger vehicles, and recreational vehicles in residential districts and for residential uses located in nonresidential districts shall only be permitted as follows:
- (a) Commercial and other nonpassenger vehicles:
 - [1] No more than one commercial vehicle shall be permitted on a single lot in any residential district or on any single residential use located in a nonresidential district.
 - [2] The only commercial vehicles permitted to be stored outdoors in the RMF, R13, R20 and R40 Zone Districts or for a residential use on a lot of equal to or less than 40,000 square feet located in a nonresidential zone are pickup trucks/vans without attachments registered for 16,000 pounds or less.
 - [3] No commercial vehicle to be stored outdoors in all other residential zone districts or for a residential use on a lot greater than 40,000 square feet located in a nonresidential zone shall exceed a gross weight of 26,000 pounds.
 - [4] No commercial vehicle to be stored outdoors in any residential zone district or on any residential use located in a nonresidential district shall exceed a length of 25 feet or a height of nine feet.
 - [5] Commercial vehicles shall only be permitted on a driveway.
 - [6] All commercial vehicles shall be owned by or registered to the resident of the property or the resident's employer.
 - [7] Notwithstanding the provisions of Subsection 54-30.8B(4)(a)[1] through [6] above, in all residential zones and for all residential uses located in nonresidential zoning districts only one commercial towing truck registered for 26,000 pounds or less may be stored in a residential driveway during those times when that particular tow truck is on call for response to Township emergency towing needs.
 - (b) Recreational vehicles:

- [1] No more than two recreational vehicles located outside shall be permitted on a single lot in any residential district or for any single residential use located in a nonresidential district.
- [2] No recreational vehicle to be stored outdoors in any residential zone district or for any residential use located in a nonresidential zone district shall exceed a length of 40 feet, a width of nine feet, or a height of 13 feet.
- [3] Recreational vehicles shall only be permitted in the side and rear yards, or on a driveway. Said vehicles not located on a driveway shall be set back a minimum of three feet from the side and rear property lines.
- [4] All recreational vehicles shall be owned or leased by the resident of the property.
- [5] In no event shall unhitched trailers used for storage be permitted in residential districts or on any residential use located in a nonresidential district, unless said trailer meets the definition of "temporary storage container," as defined at Subsection 54-4.1, which shall be permitted only as provided and regulated at Subsection 54-30.8B(6)(a).
- [6] At no time shall a recreational vehicle parked or stored on any lot be used for living, sleeping, or housekeeping purposes; provided, however, that recreational vehicles may be permitted, on a temporary basis, for residential purposes while repairs are being made to a dwelling damaged by fire or natural disaster which has been deemed by the Administrative Officer to be temporarily uninhabitable, and subject to the following:
 - [a] Application for permit. A permit must be obtained prior to habitation. Application for a permit shall be made in writing to the Administrative Officer and shall contain the following information:
 - [i] The name and address of the owner of the recreational vehicle.
 - [ii] The owner and location of the site where the trailer is to be located.
 - [iii] A sketch showing the location of the trailer on the site, as well as roadway access, utility connections, and other such considerations.
 - [iv] A letter from the Department of Community Services approving the proposed utility connections.

- [v] An estimate from the contractor making the repairs of the time necessary to complete the repairs.
 - [vi] A certification by the owner of the property that no use will be made of the damaged building until a certificate of occupancy is issued.
- [b] Fee. A fee of \$50 shall accompany each application.
 - [c] Term of permit. A permit issued under this section shall be valid for a period of six months. Thereafter, the homeowner must apply to the Administrative Officer for an extension of said permit. Only one said extension shall be permitted.
 - [d] Revocation of permit. Any permit issued under this section shall be revoked if the Administrative Officer or Health Officer determines that the presence of the recreational vehicle is causing or is likely to cause a threat to the health, safety, or welfare of its occupants, or any other residents of the Township.
- (c) Nothing contained herein shall be construed to permit the outdoor storage of unlicensed, unregistered, abandoned, inoperable, wrecked, partially stripped or dismantled vehicles or vehicle parts of any kind in any residential district or for any residential use located in a nonresidential zoning district.
 - (d) Nothing contained herein shall be construed to prohibit the temporary storage or parking outdoors of construction vehicles and equipment connected with a permitted construction project, which are regulated at Subsection 54-30.8H.
- (5) Septic systems. A septic system shall be permitted to be located on a lot other than the lot containing the principal dwelling it serves, provided all of the following conditions are complied with:
 - (a) The existing septic system that serves the dwelling must have malfunctioned (as defined in N.J.A.C. 7:9A-2.1) or is inadequate for the existing gallonage.
 - (b) The septic system may be expanded, however the septic gallonage cannot be expanded.
 - (c) All other regulations regarding the installation of septic systems continue to apply.
 - (d) Prior to the installation of the septic system, the owner of the principal dwelling must obtain an easement from the owner of the lot where the new septic system is to be located for permission to access, maintain, repair and replace said septic system. In the event the septic system is not located on a lot directly adjacent to the lot containing the principal dwelling, the owner

of the principal dwelling must also obtain easements from the owners of each lot that must be crossed in order to access said septic system. Said fully executed easement(s) must be recorded in the Morris County Clerk's Office and submitted to the Township Tax Assessor and Township Health Department prior to installation of the septic system.

- (6) Outdoor storage. In all residential zoning districts and for all residential uses located in nonresidential zoning districts, outdoor storage shall be a prohibited use, except to the extent provided below:
 - (a) Temporary storage containers shall be permitted as follows:
 - [1] Temporary storage containers shall only be kept on a developed, single-family residential lot as a temporary structure accessory to the existing dwelling.
 - [2] No more than one temporary storage container shall be permitted per property.
 - [3] Said container shall be placed on a paved surface and shall be set back a minimum of three feet from all property lines and the street right-of-way.
 - [4] Said container shall be set back a minimum of five feet from any building.
 - [5] Said container shall be no larger than 10 feet wide, 20 feet long and 10 feet high.
 - [6] Said container shall be permitted for a period not to exceed 90 days, with one extension up to 90 days.
 - [7] A permit for said container shall be obtained from the Administrative Officer. A fee of \$50 shall be charged for the initial permit, with an additional fee of the same amount for any extension which may be granted by the Administrative Officer.
 - (b) Parking and storage of commercial vehicles, nonpassenger vehicles, and recreational vehicles shall be permitted as set forth at Subsection 54-30.8B(4).
 - (c) Nothing contained herein shall be construed to restrict the outdoor storage of items customarily incidental to a residential use, including, but not limited to, firewood intended for use on the premises and refuse and recycling materials which are temporarily stored in closed containers and awaiting collection. However, discarded furniture, household appliances, accumulation of household items or other debris, salvaged materials, junk or wastes of any kind are expressly prohibited.

- (d) Nothing contained herein shall be construed to limit the outdoor display and sale of farm produce, storage of farm machinery or vehicles for use on a farm, or storage of the products of agricultural uses for a farm, which are regulated at Section 54-31.
- (e) Outdoor storage is only permitted in the side and rear yards and driveway. The item stored outside may not protrude beyond the projection of the driveway or the front of the dwelling into the front yard.

Section 3. Chapter 54 of the Code of the Township of Rockaway, Land Use and Development, Section 30.8, Accessory Structures and Uses, Subsection D, Outdoor storage in nonresidential districts is amended as follows.

D. Outdoor storage in nonresidential districts. Unless otherwise specified in this chapter, outdoor storage shall be permitted as an accessory use in all nonresidential zoning districts, subject to the following requirements:

- (1) Outdoor storage shall be permitted only in conjunction with the principal use conducted on the property.
- (2) Outdoor storage must be located to the rear of the principal building to which it is accessory.
- (3) Outdoor storage shall be set back a minimum of 25 feet from all property lines, unless a greater setback is required for principal buildings, in which case the greater setback shall apply.
- (4) A barrier shall be erected along the storage setback line to prevent encroachment by storage material. Such barrier shall consist of curbing, fencing, guardrail, and/or substantial landscaping, as required by the approving Board.
- (5) No outdoor storage articles shall exceed a height of 16 feet.
- (6) All outdoor storage shall be screened from adjoining properties and streets by means of fencing and landscaping, as required by the approving Board.
- (7) Outdoor storage of nursery stock, accessory to a garden center, which cannot ordinarily be accommodated indoors, is permitted within the front and side yard setbacks of the principal building, subject to the following:
 - (a) Nursery stock shall be set back a minimum of 25 feet from all property lines and the street right-of-way.
 - (b) Nursery stock shall occupy no more than 50% of the yard in which it is located.
 - (c) Nursery stock shall consist exclusively of plant material.

- (8) Nothing contained herein shall be construed to permit any manufacturing, compounding, processing, fabrication, or assembly of goods to be conducted outdoors. Such uses or operations, where permitted, shall be conducted wholly within a completely enclosed building.
- (9) Nothing contained herein shall be construed to limit the parking of vehicles at loading docks during the course of loading and unloading, as regulated at Subsection 54-30.12.
- (10) Nothing contained herein shall be construed to permit the outdoor storage of unlicensed, unregistered, abandoned, inoperable, wrecked, partially stripped or dismantled vehicles or vehicle parts of any kind in any nonresidential district.

Section 4. Chapter 54 of the Code of the Township of Rockaway, Land Use and Development, Section 30.8, Accessory Structures and Uses, Subsection E, Fences and Walls, is amended as follows.

- E. Fences and walls. Any fence or wall, including retaining walls, in any district which exceeds four feet in height shall require a permit from the Zoning Officer and shall be subject to the following requirements:
 - (1) Fences and freestanding walls up to and including four feet in height shall be permitted in all yards, and fences and freestanding walls up to and including six feet in height shall only be permitted in side and rear yards.
 - (2) Except for maintenance-free fences which shall be defined as any fence not constructed of wood, all fences and walls shall be set back from any property line a distance that is not less than 1/2 the height of the fence or wall, unless the fence or wall is required to screen off-street parking areas as required by this chapter.
 - (3) All fences shall be constructed so that the finished side of the fence faces the abutting property or the street, as applicable.
 - (4) No retaining wall exceeding six feet in height from the lowest elevation of the finished grade to the top of the retaining wall shall be built in any district unless and until a site plan has been submitted to and approved by the Planning Board in accordance with the terms of this chapter and with the approval of the Township Engineer. All retaining walls greater than or equal to four feet in height shall receive a post-construction certification from a licensed engineer as to its proper construction.

